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GOVERNMENT OF TRIPURA
LAW DEPARTMENT
SECRETARIAT : AGARTALA

No.F.11 (2)- Law/Lib/2018/9385-86 **Dated, Agartala the 25th September, 2019.**

Subject : Re-publication of Central Acts & Amendment Acts in the State Gazette.

1. The Insolvency and Bankruptcy Code (Amendment) Act, 2019 (Act No.26 of 2019).

25/09/19

Rahul Roy
Under Secretary, Law
Government of Tripura.

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2019

AN ACT

further to amend the Insolvency and Bankruptcy Code, 2016.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 5.

31 of 2016.

2. In section 5 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in clause (*26*), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby clarified that a resolution plan may include provisions for the restructuring of the corporate debtor, including by way of merger, amalgamation and demerger;".

Amendment of section 7.

3. In section 7 of the principal Act, in sub-section (*4*), the following proviso shall be inserted, namely:—

"Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (*5*) within such time, it shall record its reasons in writing for the same.".

Amendment of section 12.

4. In section 12 of the principal Act, in sub-section (*3*), after the proviso, the following provisos shall be inserted, namely:—

"Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of three hundred and thirty days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor:

Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of ninety days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.".

Amendment of section 25A.

5. In section 25A of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Notwithstanding anything to the contrary contained in sub-section (*3*), the authorised representative under sub-section (*6A*) of section 21 shall cast his vote on behalf of all the financial creditors he represents in accordance with the decision taken by a vote of more than fifty per cent. of the voting share of the financial creditors he represents, who have cast their vote:

Provided that for a vote to be cast in respect of an application under section 12A, the authorised representative shall cast his vote in accordance with the provisions of sub-section (*3*).".

Amendment of section 30.

6. In section 30 of the principal Act,—

(*a*) in sub-section (*2*), for clause (*b*), the following shall be substituted, namely:—

"(*b*) provides for the payment of debts of operational creditors in such manner as may be specified by the Board which shall not be less than—

(*i*) the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or

(*ii*) the amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in sub-section (*1*) of section 53,

whichever is higher, and provides for the payment of debts of financial creditors, who do not vote in favour of the resolution plan, in such manner as may be specified by the Board, which shall not be less than the amount to be paid to such creditors in accordance with sub-section (*1*) of section 53 in the event of a liquidation of the corporate debtor.

Explanation 1.—For the removal of doubts, it is hereby clarified that a distribution in accordance with the provisions of this clause shall be fair and equitable to such creditors.

Explanation 2.—For the purposes of this clause, it is hereby declared that on and from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the provisions of this clause shall also apply to the corporate insolvency resolution process of a corporate debtor—

(*i*) where a resolution plan has not been approved or rejected by the Adjudicating Authority;

(*ii*) where an appeal has been preferred under section 61 or section 62 or such an appeal is not time barred under any provision of law for the time being in force; or

(*iii*) where a legal proceeding has been initiated in any court against the decision of the Adjudicating Authority in respect of a resolution plan;";

(*b*) in sub-section (*4*), after the words "feasibility and viability,", the words, brackets and figures "the manner of distribution proposed, which may take into account the order of priority amongst creditors as laid down in sub-section (*1*) of section 53, including the priority and value of the security interest of a secured creditor" shall be inserted.

Amendment of section 31.

7. In section 31 of the principal Act, in sub-section (*1*), after the words "members, creditors,", the words "including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed," shall be inserted.

Amendment of section 33.

8. In section 33 of the principal Act, in sub-section (*2*), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the purposes of this sub-section, it is hereby declared that the committee of creditors may take the decision to liquidate the corporate debtor, any time after its constitution under sub-section (*1*) of section 21 and before the confirmation of the resolution plan, including at any time before the preparation of the information memorandum.".

Amendment of section 240.

9. In section 240 of the principal Act, in sub-section (*2*), in clause (*w*), for the words "repayment of debts of operational creditors", the words "payment of debts" shall be substituted.